



NO PROTEST RECEIVED
Department of the Treasury
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

Date: [REDACTED]

DATE: [REDACTED]

SURNAME: [REDACTED]

Contact Person: [REDACTED]

Identification Number: [REDACTED]

Contact Number: [REDACTED]

Employer Identification Number: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501(c)(3). Based on the information submitted, we have concluded that you do not qualify for exemption under that section. The reasons for our conclusions are set forth below.

You were incorporated under the laws of [REDACTED] on [REDACTED]. Article 3 of your Articles of Incorporation states that you are organized exclusively for religious purposes within the meaning of section 501(c)(3) of the Code.

Article III (d) of your articles provides in part that: "It [REDACTED] shall operate as a free and independent corporation in accord with its own conscience and the wisdom of God, as the corporation perceives to be, in every case and in every act and in pursuit of or adoption of any policy or method or in practice or association, the corporation does and shall do so as a free organization always retaining its sovereignty and independence, and in no case whatsoever as an act of subjection nor precedent or amenability nor as an active or passive or implied affiliation nor in any way as relinquishing its perpetual legal independence and sovereignty."

Article IV of your articles provides that: "To assure the corporation of its sovereignty and independence and to perpetually protect the organization, all ecclesiastical and legal power and authority relative to the corporation shall be exercised by and in accordance with the new testament church pattern. Thus under the leadership of the Holy Spirit, The Board of Trustees shall conduct all business of the corporation and shall be the only voting members of the corporation. The number of trustees, and the qualifications shall be established in the bylaws of this corporation. The qualifications of member (sic) and the manner of their admission shall be fully provided in the bylaws."

Article Ten of your bylaws (Conflict of Interest) provides that: Any director, officer, or key employee who has an interest in a contract, salary negotiation, or other transaction presented to the Board of Trustees or a committee thereof for authorization, approval, or ratification shall make prompt and full disclosure of his interest to the Board of Trustees or committee thereof prior to its acting on such contract or transaction. Such disclosure shall include any relevant and material facts known to such person about the contract or transaction which might reasonably be construed as to

be adverse to the corporation's interest."

"The body to which such disclosure is made shall thereupon determine, by a vote of seventy-five (75%) of the votes entitled to vote, whether the disclosure shows that a conflict of interest exists or can be reasonably be construed to exist. If a conflict is deemed to exist, such person shall not vote on, nor exert his personal influence regarding, nor participate in (other than to present factual information or to respond to questions) the discussions or deliberations with respect to such contract or transaction. Such person may be counted in determining whether a quorum is present but may not be counted when the Board of Directors or a committee of the Board takes action on the transaction. The minutes of the meeting shall reflect the disclosure made, the vote thereon, the abstention from voting and participation (where applicable), and whether a quorum was present."

Your original officers, directors and trustees were [REDACTED], President/Trustee, [REDACTED], Vice-President/Trustee, [REDACTED], and [REDACTED], Secretary/Trustee, [REDACTED] and [REDACTED] are husband and wife. Your primary business office is located at [REDACTED].

You state that you plan to lead and your board over time as those who have the same vision and calling can be found, but they must be added without violating the scripture and your conscience. The appointment of untested and unanointed board members is not in the best interest of the ministry. Further, as God brings forth representatives from the community who have an interest in the activities and plans of the ministry, they will certainly be prayerfully considered to serve on the Board of Trustees.

You state that [REDACTED] presently travels in North America teaching in churches. He also travels in South America where you do missionary work with poor Spanish churches. You bring Christian books for the people. [REDACTED] has also traveled to Italy to teach in a Bible School. On average he travels two to six times per month. The average attendance depends on where he is ministering, but averages 50 to 100 people. You state this ministry was formed to teach the gospel of Jesus Christ, to help the poor and those are less fortunate, and, edify such ones to be a blessing to them so they are not a burden to the community.

You state that the ministry plans to compensate [REDACTED] in the future for his duties as minister of the organization. The amount to be paid in salary and housing allowance will be determined by the board. [REDACTED] is the only person eligible for the salary and housing allowance.

You have failed to provide us with a substantial amount of important information that we requested:

We asked you for "copies of any ads, flyers, brochures, radio or TV spots, or other media that you publish to solicit membership and otherwise make the general public aware of your existence and activities." You provided no information of this kind, but merely sent us two pictures of an individual speaking and [REDACTED] "Alumni Association" card.

We asked for detailed information concerning your ministry office at [REDACTED]. You merely answered that it was at the residence of [REDACTED] and [REDACTED].

We asked for "flyers, ads, or other media associated with these [South America and

trips", "copies of invitations or requests", and "representative copies of expense vouchers for these trips . . . for each person included on these trips." You did not provide such information, but merely stated generally that [REDACTED] travels to North America, South America and Italy "two to six times per month," with average attendance of [REDACTED] to [REDACTED] people." You provided no expense information.

We asked you to "describe your youth activities and your fellowship dinners (When, with whom, and where are they conducted? By whom and to what youth groups.)" You gave no information on youth activities. You stated that "the expense on the proposed budgets is for dinners and such that are hosted by the ministry." No information was given as to the participants at the dinners, the purposes of the dinners, and how the dinners promote a religious or charitable purpose.

We asked for a copy of the minutes of the annual meeting of your Board of Trustees, which is required by your Bylaws. You ignored this question in your response.

In a "Questionnaire" included with your Form 1023, the following question is asked: "Is the minister employed outside the organization? If so, explain such employment and number of hours worked." You did not respond to this question. No explanation is given respecting how your minister and other officials finance their travel and other expenses. We have no information whether [REDACTED] companies [REDACTED] on these trips, and whether you have paid or will pay the expenses of one or both of them.

You state that you have no fundraising or business activities, but do not explain how you intend to raise the substantial funds that are necessary for the trips and other expenses of your minister.

Section 501(c)(3) of the Code provides for the exemption from federal income tax of organizations organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(a)-1(c) of the Income Tax Regulations defines "private shareholder or individual" as persons having a personal and private interest in the activities of the organization.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3) of the Code.

Section 1.501(c)(3)-1(d)(1) of the regulations provides that an organization is not organized and operated exclusively for the purposes specified in section 501(c)(3) unless it serves a public rather than a private interest. To meet this requirement, an organization must establish that it is not organized or operated for the benefit of private interests such as the creator or his family, or persons controlled, directly or indirectly, by such private interests.

Rev. Rul. 55-610, 1955-2 CB 262, discussed an organization that was formed to operate the activities which its principal founder conducted as his personal undertaking or hobby in prior years. The organization planned to reimburse the founder for the expenses incurred by him in prior years in the

conduct of these activities. Held: Since a portion of the net earnings of the organization will inure to the benefit of the founder, the organization was not entitled to exemption from income tax under section 501(c)(3) of the Code.

An organization is not operated exclusively for charitable purposes, and thus will not qualify for exemption under section 501(c)(3) if it has a single non-charitable purpose that is substantial in nature. This is true regardless of the number or importance of the organization's charitable purposes. Better Business Bureau v. United States, 326 U.S. 278 (1945); Stevens Bros. Foundation, Inc. v. Commissioner, 324 F.2d 833 (8th Cir. 1963), affg. 39 T.C. 93 (1962), cert. denied, 376 U.S. 969 (1964). Operating for the benefit of private parties who are not members of a charitable class constitutes such a substantial nonexempt purpose. Old Dominion Box Co., Inc. v. United States, 477 F.2d 340 (4th Cir. 1973), cert. denied, 413 U.S. 910 (1973).

In Bubbling Well Church of Universal Love, Inc. v. Commissioner, 74 T.C. 531 (1980) aff'd, 670 F.2d 104 (9th Cir. 1980), the Tax Court considered the qualification for exemption of an organization purporting to be a church. The applicant was controlled by three family members. The court stated:

While this domination of petitioner by the three [family members], alone may not necessarily disqualify it for exemption, it provides an obvious opportunity for abuse of the claimed tax-exempt status. It calls for open and candid disclosure of all facts bearing upon petitioner's organization, operations, and finances so that the Court, should it uphold the claimed exemption, can be assured that it is not sanctioning an abuse of the revenue laws. If such disclosure is not made, the logical inference is that the facts, if disclosed, would show that petitioner fails to meet the requirements of section 501(c)(3).

Thus, close control of an applicant, because of the potential for abuse, requires a clear demonstration that private interests will not be served.

In Unitary Mission Church of Long Island v. Commissioner, 74 T.C. 36 (6-3-80), three individuals formed a religious organization that claimed tax exempt status under IRC 501(c)(3). The organization had a religious doctrine and conducted, through its ministers, various types of religious activities. However, the court concluded that the organization was not entitled to exemption under IRC because a part of its net earnings inured to the benefit of private shareholders or individuals. The court also noted that the cofounder and his wife were two of the three members of the organization's board of directors and controlled its financial decisions. Besides controlling the determination of parsonage allowances, the cofounders controlled the decisions regarding reimbursement for their own travel expenses, the repairs and improvements to the parsonage located in their house, and the loans made to the cofounder's secular employer. Although control of financial decisions by individuals who appear to benefit personally from certain expenditures does not necessarily indicate inurement, those factors coupled with little or no factors in the administrative record to indicate the reasonableness and appropriateness of the expenses were sufficient to convince the court that there was inurement.

In Basic Bible Church v. Commissioner, 74 T.C. 62, the court concluded that the organization served the private interests of its founder and his family. The court noted that the founder had total control over the management of the organization's affairs and determined how its money was spent. He held title to all property, both personal and real, in his own name. Also, the organization listed as its liabilities an automobile loan of \$493.49 and debts for fuel for the founder's residence and other

Items. Finally, the court noted that most of the organization's funds were expended for the founder's benefit. The court concluded that, despite its also serving religious and charitable purposes, the organization existed to a great extent to serve the private benefit of the founder.

In order to qualify for exemption under section 501(c)(3) of the Code, you must establish that you are organized and operated exclusively for religious, charitable, or educational purposes and that no part of your net earnings inure to the benefit of a private individual or shareholder. An organization will not be regarded as being operated exclusively for exempt purposes if more than an insubstantial part of its activities is in furtherance of an exempt purpose.

You are not chartered by, subordinate to, affiliated with, accountable to, or associated with any other organization. Your affairs are totally and completely in control of your founders whose control and influence are self-perpetuating. All expenditures, including salaries and housing allowances are totally within the province of interested Directors or Trustees. Such close control requires full and adequate disclosure of all relevant facts to insure that the organization's funds do not inure to the benefit of founders or directors. You have failed to provide such substantiated, documented facts.

The duties of a minister generally include the performance of sacerdotal functions, the conduct of religious worship, the administration and maintenance of religious organizations and their integral agencies, and the performance of teaching and administrative duties at theological seminars. You have failed to provide any information establishing that [REDACTED] performs any of these functions for you, or, on behalf of any church or other religious organization.

While you state that [REDACTED] has traveled both in North and South America doing missionary work with poor Spanish churches, you have failed to provide any information such as expense accounts or itinerary establishing a nexus between your stated purposes and the activities of [REDACTED]. You have failed to provide copies of any minutes of meetings of your trustees which could provide insight into your activities or the reasonableness of these expenditures, or, how your Conflict of Interests policy would be implemented. You have not shown any expenses related to the publication or purchase of books or other materials used or distributed by [REDACTED] on your behalf.

Because a significant proportion of your proposed expenditures redound to the benefit of [REDACTED] in the form of salary, housing allowance, and travel and entertainment expenses, we believe that you serve the private interests of [REDACTED] more than incidentally, and that your net earnings inure to the benefit of [REDACTED] violating the inurement proscription of section 501(c)(3) of the Code. Furthermore, serving the private interests of your founders who are not members of a charitable class is a substantial nonexempt purpose that is also a bar to exemption regardless of the number or importance of any other of your charitable or educational purposes. See, Better Business Bureau v. United States, and Old Dominion Bell Co., Inc. v. United States, *supra*.

Because you have failed to establish that net income does not inure to the benefit of [REDACTED], and because you have not established that you do not serve the private interests of [REDACTED] more than incidentally, and because you have not established that you are otherwise qualified for exemption under section 501(c)(3) of the Code, we cannot recognize you as exempt under that section.

Because you do not qualify for exemption as an organization described in section 501(c)(3) of the Code, you must file federal income tax returns.

Contributions to you are not deductible under section 170 of the Code.

You have the right to protest this ruling if you believe it is incorrect. To protest, you should submit a statement of your views to this office, with a full explanation of your reasoning. This statement, signed by one of your officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Requirements.

If you do not protest this ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Code provides, in part, that a declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Court of Federal Claims, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service.

If we do not hear from you within 30 days, this ruling will become final and a copy will be forwarded to the Ohio Tax Exempt and Government Entities (TE/GE) office. Thereafter, any questions about your federal income tax status should be directed to that office, either by calling 877-829-5500 (a toll free number) or sending correspondence to: Internal Revenue Service, TE/GE Customer Service, P.O. Box 2506 Cincinnati, OH 45201. The appropriate State Officials will be notified of this action in accordance with Code section 6104(c).

When sending additional letters to us with respect to this case, you will expedite their receipt by using the following address:

[REDACTED ADDRESS]

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

[REDACTED SIGNATURE]
Manager, Exempt Organizations